CURRENT DECISIONS

CARRIERS—LIMITATION OF LIABILITY FOR NEGLIGENCE—CARMACK AMENDMENT.—Cattle were shipped by railroad under the "Uniform Live-Stock Agreement" by which, in consideration of a reduced rate, it was agreed that in the event of negligent delay or detention damages should be limited to the amount actually expended by the shipper in the purchase of food and water for the cattle while so detained. Suit was brought for loss arising from negligent delay. *Held,* that the attempted limitation of liability for negligence was invalid under the Carmack Amendment. *Boston & Maine R. R. Co. v. Piper* (1918, U. S.) 38 Sup. Ct. 354.

The case apparently arose before the adoption of the latest amendments to the Interstate Commerce Act, by which, in the case of "ordinary live-stock," all contracts of any kind attempting to limit liability are forbidden. See Act March 4, 1915, 38 U. S. St. at L. 1196, and Act Aug. 9, 1916, 39 U. S. St. at L. 441. It is chiefly interesting as showing that the court was not disposed to extend the agreed valuation doctrine of *Adams Express Co. v. Croninger* (1913) 226 U. S. 491, 33 Sup. Ct. 148, and other later decisions, which, as applied to cases of negligence, was said in *Wells Fargo & Co. v. Neiman-Marcus Co.* (1913) 227 U. S. 469, 476; 33 Sup. Ct. 267, 269, to rest on estoppel. There was clearly no basis for estoppel in the principal case.

CIVIL RIGHTS—RACE DISCRIMINATION—PLACES OF PUBLIC ACCOMMODATION.—Section 40 of the Civil Rights Law of New York forbids discrimination on account of race or color at any "place of public accommodation, resort, or amusement." The law defines such a place as including hotels, restaurants, public conveyances, and several other places, but makes no mention of saloons. The plaintiff, a negro, was refused liquors at a saloon belonging to the defendant, the refusal being due solely to the plaintiff's color. He sued for the penalty in accordance with other provisions in the statute. *Held,* three judges dissenting, that he had no cause of action. *Gibbs v. Arras Bros.* (1918, N. Y.) 118 N. E. 857.

The plaintiff, a negro, sought to purchase tickets to the floor of a dancing pavilion maintained at a park owned and operated by the defendant electric railroad company as auxiliary to its transportation business. On account of his color he was denied admittance. The Civil Rights Law makes no express mention of dancing pavilions. *Held,* that the plaintiff was entitled to the penalty provided by the law for exclusion from a place of public accommodation, resort or amusement. *Johnson v. Auburn & Syracuse Elec. R. Co.* (1918, N. Y.) 119 N. E. 72.

These cases give a reasonable construction to a statute that exists in most of the Northern states. If the legislature means to forbid race discrimination in every sort of private business, it should do so expressly. When the statute list certain places, as hotels, bathhouses, barber shops, theaters and music halls, the courts should not extend the application of the law to other sorts of business by mere analogy or inference. Such a law deprives citizens of customary and desirable privileges. Sound policy would restrict such laws to the kinds of business long recognized as affected with public interest and as requiring governmental regulation.

CONSTITUTIONAL LAW—FEDERAL CHILD LABOR LAW INVALID.—Suit was brought by a father in his own behalf and as next friend of his two minor sons, one under the age of fourteen and the other between fourteen and six-

teen years of age, employees in a cotton mill at Charlotte, N. C., to enjoin the enforcement of the Federal Child Labor Law (39 St. at L. 675) which prohibits the shipment in interstate commerce of any product of a mill, factory, etc., in the United States, in which within thirty days before the removal of such product children under the age of fourteen have been employed, or children between fourteen and sixteen have been employed more than eight hours in a day, or more than six days in any week, or between seven in the evening and six in the morning. *Held,* that the Act was invalid, since "it not only transcends the authority delegated to Congress over commerce but also exerts a power as to a purely local matter to which the federal authority does not extend." Holmes, McKenna, Brandeis and Clarke, JJ., *dissenting. Hammer v. Dagenhart* (June 3, 1918) U. S. Sup. Ct. Oct. 1917 Term, No. 704.

Mr. Justice Day's opinion distinguishes the earlier decisions which were thought to be controlling, such as the Lottery case, the Pure Food case, the White Slave case, the Whiskey case, on the ground that "in each of these instances the use of interstate transportation was necessary to the accomplishment of harmful results," while here "the goods shipped are of themselves harmless" and the thing intended and affected by the statute is not the regulating of transportation among the states but the standardizing of the ages at which children may be employed in manufacturing and mining within the states. One cannot read the luminous dissenting opinion of Mr. Justice Holmes without doubting the soundness of this distinction and questioning the wisdom of the majority's view that legislative motive and the indirect effects of legislation may limit the exercise by Congress of its admitted power to regulate commerce.

CONTRACTS—CONTRACT TO BEQUEATH—ACTION AT LAW FOR DAMAGES.—The plaintiff sued in the federal court for the southern district of New York the executors of L, alleging a promise by L to bequeath her $50,000 if she would perform certain services, that she had performed them, and that L had bequeathed her only $10,000. The District Judge transferred the suit to the equity side of the court on the ground that an action at law could not be sustained by New York law. The plaintiff filed a petition for mandamus to require the judge to entertain the suit at law. *Held,* that the petitioner was entitled to a writ of mandamus, since the law of New York permits an action at law for breach of a contract to leave a legacy. *Matter of Simons* (June 3, 1918) U. S. Sup. Ct. Oct. 1917 Term, No. 26 Original.

For a discussion of testamentary contracts, see (1918) 27 YALE LAW JOURNAL, 542.

CORPORATIONS—STOCK—SHARES ISSUED FOR CONSIDERATION LESS THAN PAR VALUE VOID.—The constitution of Oklahoma forbids any corporation to issue stock except "for money, labor done, or property actually received to the amount of the par value thereof, and all fictitious increase of stock . . . shall be void." A stockholder in an Oklahoma corporation filed a bill in equity asking cancellation of certain certificates of stock, alleging that they had been issued in violation of this provision. It appeared at the trial that they had been issued in good faith for only forty per cent. of the par value, which was all that could be obtained at the time. A portion of the "shares" had been transferred by the original holder to a *bona fide* purchaser for value. *Held,* that the shares issued in violation of the provision were absolutely void, even in the hands of a *bona fide* purchaser for value, and that the certificates should therefore be cancelled. *Lee v. Cameron* (1917, Okla.) 169 Pac. 17.